

REMARKS

A review of the claims indicates that:

A) Claims 2—28 and 30—53 remain in their original form.

B) Claims 1 and 29 are currently amended.

In view of the following remarks, Applicant respectfully requests reconsideration of the rejected claims and withdrawal of the rejections.

Traversal of Rejection of Independent Claim 1

Claims 1—12, 17—33 and 40—53 were rejected under §102(a) as being anticipated by Pawlak, “Software Update Service to Ease Patch Distribution,” hereinafter “Pawlak.” In response, the Applicant respectfully traverses the rejection.

Claim 1 recites a processor-readable medium comprising processor-executable instructions for performing software updates, the processor-executable instructions comprising instructions for:

- **assigning a level of service to each of a plurality of users**, by which the software updates will be performed;
- scheduling performance of the software updates to a user from among the plurality of users **according to the level of service assigned to that user**; and
- performing the software updates according to the schedule.

Claim 1 has been amended only to clarify that a service level is assigned to a user, and not to substantively change the claim. Assignment of different service levels to different users are discussed at [0094] and other locations in the specification.

Claim 1 recites, “assigning a level of service to each of a plurality of users, by which the software updates will be performed”. The Applicant respectfully

1 submits that assignment of a level of service to each of a plurality of users is not
2 shown or disclosed by the prior art of record.

3 Pawlak fails to disclose assignment of a level of service to users, i.e. client
4 computers. Referring to Pawlak at pages 1 and 2 (as per the Examiner's hand-
5 written page numbers) Pawlak discloses that organizations can adopt any of four
6 "strategies" to software updating. The "Do Nothing" strategy, the "Manual"
7 strategy, the "Allow end users to do it" strategy, and the "Use a software product"
8 strategy. However, a review of each of these strategies fails to disclose aspects by
9 which "a level of service" is assigned to each of a plurality of users. In fact, it
10 appears that all users in the organization are similarly serviced, and that no
11 distinction is made between different users with different levels of service.
12 Accordingly, Pawlak does not disclose 'levels of service,' and does not disclose
13 'scheduling of user's updates based on a level of service'.

14 The Patent Office points to page A5 (with "A5" as hand-written by the
15 Examiner), and suggests that page A5 discloses assigning a level of service. The
16 Applicant respectfully disagrees.

17 Referring to page A5, three "SUS Architectural Scenarios" are disclosed.
18 Each scenario describes how an organization may be organized. For example, the
19 organization may be small- or medium-sized (Scenario 1) or geographically
20 dispersed (Scenario 2) or use a firewall (Scenario 3). However, none of the three
21 scenarios discloses use different level of service assignments. In fact, it is not
22 clear that, even between organizations associated with different scenarios,
23 different levels of service are disclosed. In fact, in contrast to the different levels
24 of service recited by Claim 1, *Pawlak discloses that each client is treated the*
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1 same. In Scenario 1, "all client systems get approved packages" (quote from
2 Scenario 1 of Pawlak. In Scenario 2, clients receive "all approved packages" from
3 the parent (quote from Scenario 2 of Pawlak). In Scenario 3, "the clients get the
4 list of approved packages" (quote from Scenario 3 of Pawlak). Thus, multiple
5 levels of service are not assigned by the Pawlak reference.

6 Pawlak does not show or disclose scheduling updates based on level of
7 service. The Patent Office suggests that pages A1 to A3 of Pawlak discloses
8 scheduling updates based on level of service. The Applicant respectfully
9 disagrees.

10 Referring to pages A1 to A3, Pawlak discloses software packages can have
11 a "critical" priority level. (Other priority levels are not explicitly disclosed by
12 Pawlak at A2 and A3.) However, the Applicant stresses that a level of service is
13 assigned to each user, and is distinct from the "criticality" (or not) of any given
14 software update. The level of service is a characteristic applied to the user, and
15 the criticality of the software is a distinct concept and varies between software
16 updates. Accordingly, Pawlak fails to disclose that each user is assigned a level of
17 software service.

18 In view of the discussion above, the Applicant respectfully submits that, at
19 a minimum, the Pawlak reference fails to show or disclose (1) assigning a level of
20 service to each of a plurality of users, and (2) scheduling updates to a user from
21 among the plurality of users according to the level of service assigned to that user.
22 Therefore, the Applicant respectfully submits that Pawlak does not support the
23 Section 102(a) rejection of Claim 1 and respectfully requests that the rejection be
24 removed and the claim allowed to issue.
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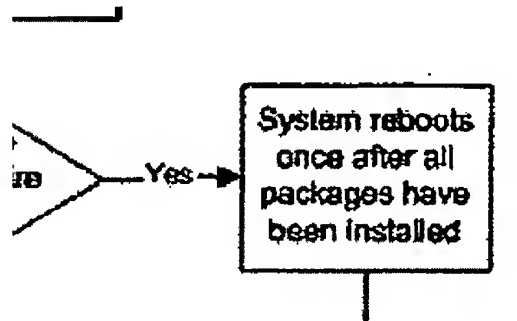
1 **Claims 2—28** depend from Claim 1 and are allowable due to their
2 dependence from an allowable base claim. These claims are also allowable for
3 their own recited features that, in combination with those recited in Claim 1, are
4 not shown and not disclosed in references of record, either singly or in
5 combination with one another.

6 **Claim 30** recites a processor-readable medium comprising processor-
7 executable instructions for assisting a user to update software, the processor-
8 executable instructions comprising instructions for:

- 9 • displaying an icon configured to allow a user a choice between
10 displaying software reminders and initiation of installation of the
11 software updates;
- 12 • wherein the software reminders include **information on grace
13 periods within which installation of the software update may be
14 postponed and information on the onset of enforcement periods
15 after which installation of the software update may not be
16 postponed; and**
- 17 • providing a user interface to allow selection of a time to perform the
18 installation of the software update and **to allow selection of a time
19 to reboot.**

20 Claim 30 recites, reminders of “information on grace periods within which
21 installation of the software update may be postponed” and “information on the
22 onset of enforcement periods after which installation of the software update may
23 not be postponed”. The Applicant submits that Pawlak discloses only deferring
24 installation, and fails to show or disclose the combination of reminders of a grace
25 period followed by reminders of an enforcement period. Moreover, Pawlak fails
to disclose a method wherein selection of a time to reboot is provided.
Accordingly, the Applicant respectfully submits that Pawlak does not support the
Section 102(a) rejection of Claim 30 and respectfully asks that the rejection be
reboot.

1 Pawlak fails to disclose a method wherein selection of a time to reboot is
2 provided. Pawlak discloses that the system reboots after all packages have been
3 installed. (See below.) In view of this disclosed mode of operation, Pawlak does
4 not disclose a user interface to allow selection of a time to withdraw.
5 Accordingly, the Applicant respectfully submits that Pawlak is deficient to support
6 a Section 102 rejection of Claim 30, and the Applicant respectfully requests that
7 the rejection be withdrawn and the claim allowed to issue.

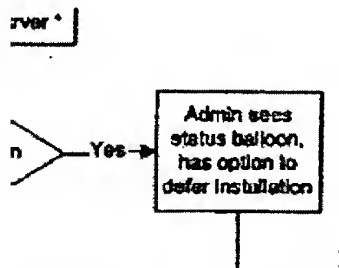


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14 Pawlak fails to disclose a method wherein a user is provided with reminders
15 for both a grace period and an enforcement period. The Pawlak reference (bottom
16 of page 3) discusses a “grace period” wherein a local user with administrative
17 privileges can defer installation of update packages. Please note that the grace
18 period appears to be open-ended, in that a follow-up enforcement period is not
19 disclosed. Additionally, the Pawlak reference (top of page 4) discloses that a user
20 without administrative privileges cannot defer installation. This is roughly
21 analogous to an “enforcement period.” Thus, Pawlak discloses that Admin users
22 get a grace period, while non-Admin users get an enforcement period. However,
23 Pawlak fails to show or disclose a system and/or method wherein a user is first
24 presented with a grace period, and then after expiration of the grace period, is
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1 presented with an enforcement period. Accordingly, the Pawlak reference fails to
2 show or disclose presenting any user with a grace period during which updates
3 may be delayed, followed by presenting the user with an enforcement period
4 during which updates may not be delayed.

5 The Patent Office suggests that Appendix A1 attached to the Pawlak
6 reference disclose the grace period followed by the enforcement period. The
7 Applicant respectfully disagrees.

8 Referring to Appendix 1, Pawlak provides that there is an option available
9 to "an Admin" to "defer" the installation. (See the relevant portion of Pawlak
10 pasted below.) However, Pawlak does not provide an "enforcement period," that
11 follows the "grace period," that removes the option to defer. That is, the Pawlak
12 grace period is open-ended and not followed by an enforcement period.
13 Accordingly, Appendix A1 of Pawlak does not show or disclose elements recited
14 by Claim 30.



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21 Therefore, the Applicant submits that the Pawlak reference fails to show or
22 disclose software reminders of, first, a grace period, followed by, second, the onset
23 of an enforcement period after which installation of the software update may not
24 be postponed. Accordingly, the Applicant respectfully submits that Pawlak is
25 deficient to support a Section 102 rejection of Claim 30, and the Applicant

1 respectfully requests that the rejection be withdrawn and the claim allowed to
2 issue.

3 **Claims 31—33** depend from Claim 30 and are allowable due to their
4 dependence from an allowable base claim. These claims are also allowable for
5 their own recited features that, in combination with those recited in Claim 30, are
6 not disclosed by reference of record.

7 **Claim 29** recites a method for performing software updates, comprising:

- 8 • **assigning a service level to each user by which software updates**
9 **will be performed;**
- 10 • displaying an icon configured to allow a user a choice between
11 displaying software reminders and initiation of installation of the
12 software updates;
- 13 • wherein the software reminders include information on grace periods
14 within which installation of the software update may be postponed
15 and information on the onset of enforcement periods after which
16 installation of the software update may not be postponed; and
- 17 • providing a user interface to allow selection of a time to perform the
18 installation of the software update and to allow selection of a time to
19 reboot, **wherein the time selected is based in part on the assigned**
20 **level of service.**

21 Claim 29 is allowable for at least the reasons Claim 30 is allowable, and the
22 remarks from above are incorporated herein.

23 Additionally, Claim 29 has been amended, and is additionally allowable for
24 the reasons discussed infra. In particular, Claim 29 recites, “assigning a service
25 level to each user by which software updates will be performed”. Accordingly,
Claim 29 is allowable for at least the reasons that Claim 1 is allowable, and the
remarks from above are incorporated herein.

Moreover, Claim 29 recites that the time for performance of the updates is
“based in part on the assigned level of service.” This is not shown or disclosed by

1 the Pawlak reference, and the remarks with respect to Claim 1 are incorporated
2 herein by reference.

3 Therefore, the Applicant submits that the Pawlak reference fails to show or
4 disclose elements recited by Claim 29. Accordingly, the Applicant respectfully
5 requests that the Section 102 rejection of Claim 29 be removed.

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7 **Claim 40** recites a processor-readable medium comprising processor-
8 executable instructions for performing software updates, the processor-executable
9 instructions comprising instructions for:

- 10 • grouping a large number of software updates into a package;
- 11 • **configuring the package for differential enforcement**, wherein
12 different computers are given different periods of time within which
13 to perform a software update; and
- 14 • configuring the package for SMS consumption.

15 Claim 40 recites, “configuring the package for differential enforcement”.
16 The Applicant submits that Pawlak discloses that users’ machines (i.e. client
17 computers) are “pointed at” appropriate servers and their operation is controlled
18 by installation modes set by administrators (see “AutoUpdate Configuration”
19 section of Pawlak, page 4). Accordingly, Pawlak fails to disclose a package that is
20 configured for differential enforcement. That is, Pawlak discloses enforcement by
21 allowing administrators to control the server providing updates, and by controlling
22 the client’s installation modes. However, Pawlak does not disclose that a package
23 is configured in any way to control differential enforcement. At least because of
24 these remarks, the Applicant respectfully requests that the Section 102 rejection be
25 withdrawn.

26 The Patent Office points to the “AutoUpdate Configuration” section of
27 Pawlak, at page 4. However, this section fails to teach package configuration.

1 Instead, the passage discusses operations from the client side, and does not address
2 the server actions in configuring packages for transmission to a client.

3 Referring to the Server-Side Processes on page A1 of Pawlak, there is no
4 disclosure of how a package could be configured for differential enforcement.
5 The client side of the diagram shows that the Admin may defer installation;
6 however, this is not based on package configuration.

7 Therefore, the Applicant submits that the Pawlak reference fails to show or
8 disclose elements recited by Claim 40. Accordingly, the Applicant respectfully
9 requests that the Section 102 rejection of Claim 40 be removed.

10 **Claims 41—43** depend from Claim 40 and are allowable due to their
11 dependence from an allowable base claim. These claims are also allowable for
12 their own recited features that, in combination with those recited in Claim 40, are
13 not disclosed by reference of record.

14 **Claim 44** recites a method for performing software updates, comprising:

- 15 • forming a package with a plurality of software updates;
- 16 • **partitioning the package to divide trusted updates from un-trusted updates;**
- 17 • distributing the package to a plurality of clients; and
- 18 • installing appropriate software updates on each of the plurality of
19 clients, **wherein the un-trusted software updates are installed
only on clients within a test environment.**

20 Claim 44 recites, “partitioning the package to divide trusted updates from
21 un-trusted updates” and “wherein the un-trusted software updates are installed
22 only on clients within a test environment”. The Applicant submits that Pawlak is
23 deficient to support the Section 102 rejection at least because Pawlak fails to show
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1 or disclose partitioning a package between trusted and un-trusted updates.
2 Moreover, Pawlak fails to show or disclose the use of a test environment.

3 The Pawlak reference fails to disclose, "partitioning the package to divide
4 trusted updates from un-trusted updates". In fact, Pawlak is silent on the nature
5 and construction of the package, and does not disclose any divisions of any kind.

6 The Patent Office refers to Pawlak at Appendix 5 and 6. In this location,
7 various LAN and Internet scenarios are disclosed for delivering updates.
8 However, the scenarios do not disclose the construction of any packages, and in
9 particular does not disclose, "partitioning the package to divide trusted updates
10 from un-trusted updates". Accordingly, the Applicant respectfully submits that the
11 Section 102 rejection should be withdrawn.

12 The Pawlak reference fails to disclose, "un-trusted software updates are
13 installed only on clients within a test environment". In fact, Pawlak does not
14 disclose any type of "test environment". The Patent Office points to Pawlak at
15 sections A1—A3 and A4—A5. However, the Applicant respectfully submits that
16 no disclosure of a test environment is disclosed. If the Patent Office intends to
17 maintain this rejection, the Applicant respectfully requests that a more specific
18 reference be made to the "test environment" of Pawlak.

19 In view of the above remarks, the Applicant submits that the Pawlak
20 reference fails to show or disclose at least the two elements discussed above and
21 recited by Claim 40. Accordingly, the Applicant respectfully requests that the
22 Section 102 rejection of Claim 40 be removed.
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1 **Claim 45** recites a processor-readable medium comprising processor-
2 executable instructions for performing software updates, the processor-executable
3 instructions comprising instructions for:

- 4 • forming a package with a plurality of software updates;
- 5 • **partitioning the package to divide trusted updates from un-**
6 **trusted updates;**
- 7 • distributing the package to a plurality of clients; and
- 8 • installing appropriate software updates on each of the plurality of
9 clients, wherein the un-trusted software updates are installed only on
10 clients **within a test environment.**

11 Claim 45 is allowable for at least the reasons that Claim 44 is allowable,
12 and the remarks from above are incorporated herein by reference. However, due
13 to the differences in the rejection between Claims 44 and 45, the Applicant
14 provides additional remarks, below.

15 The Pawlak reference fails to disclose, “partitioning the package to divide
16 trusted updates from un-trusted updates”. The Patent Office refers to Pawlak at
17 Page 3 and Appendix 1—3. In this location, the SUS (software update service)
18 and the AU (automatic update) are discussed. However, these utilities do not
19 disclose the construction of any packages, and in particular does not disclose,
20 “partitioning the package to *divide trusted updates from un-trusted updates*”. If
21 the Patent Office intends to maintain this rejection, the Applicant respectfully
22 requests that a more specific reference to a location in Pawlak regarding the
23 disclosure of partitioning of trusted and un-trusted updates. Without such
24 clarification, the Applicant respectfully submits that the Section 102 rejection
25 should be withdrawn.

The Pawlak reference fails to disclose, “un-trusted software updates are
 installed only on clients within a test environment”. In fact, Pawlak does not
 disclose any type of “test environment”. The Patent Office points to Pawlak at

1 sections A1—A3 and A4—A5. However, the Applicant respectfully submits that
2 no disclosure of a test environment is disclosed. If the Patent Office intends to
3 maintain this rejection, the Applicant respectfully requests that a more specific
4 reference be made to the “test environment” of Pawlak. Accordingly, the
5 Applicant respectfully submits that the Section 102 rejection should be withdrawn.

6 In view of the above remarks, the Applicant submits that the Pawlak
7 reference fails to show or disclose at least the two elements discussed above and
8 recited by Claim 45. Accordingly, the Applicant respectfully requests that the
9 Section 102 rejection of Claim 45 be removed.

10 **Claims 46—48** depend from Claim 45 and are allowable due to their
11 dependence from an allowable base claim. These claims are also allowable for
12 their own recited features that, in combination with those recited in Claim 45, are
13 not disclosed by reference of record.

14 **Claim 49** recites a method for performing software updates, comprising:

- 15 • using **a reference computer to generate a template** having an
16 authorization list of approved updates;
- 17 • **deploying the template to client computers**; and
- 18 • performing software updates on the client computers according to
19 the template.

20 Claim 49 recites use of “a reference computer to generate a template”. The
21 Applicant submits that Pawlak fails to disclose use of “a reference computer” and
22 fails to disclose construction and/or use of “a template” in performing a software
23 update. Accordingly, the Applicant respectfully requests that the Section 102
24 rejection be withdrawn.
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1 The Patent Office points to Pawlak at Appendix A1. However, at
2 Appendix A1 Pawlak discloses that the “Admin reviews” and “Admin approves
3 new packages”. Additionally, Pawlak at A1 discloses that the AU agents on the
4 client run a daily check and download that which has been approved. These
5 disclosures by Pawlak do not indicate that a temple is created, and do not disclose
6 a “reference computer”.

7 In view of the above remarks, the Applicant submits that the Pawlak
8 reference fails to show or disclose at least the two elements discussed above and
9 recited by Claim 49. Accordingly, the Applicant respectfully requests that the
10 Section 102 rejection of Claim 49 be removed.

11 **Claim 50** is allowable for at least the reasons that Claim 49 is allowable.
12 Accordingly, the Applicant incorporates the remarks from above at this location.
13 The Patent Office has rejected Claim 50 using slightly different sections of
14 Pawlak. The Applicant will address these issues below.

15 The Patent Office additionally points to the SUS server of page 3. Without
16 a better understanding of the Office’s thinking, the Applicant assumes that the
17 Office points to the “approval logs” disclosed in approximately line 17 of page 3.
18 However, nothing in Pawlak discloses that the “approval logs” are a template
19 deployed to client computers. Without any indication of “deploying the template
20 to client computers” the Applicant respectfully submits that Pawlak is deficient to
21 support the Section 102 rejection of Claim 50. The Applicant respectfully
22 requests that the rejection be withdrawn.

23 **Claims 51—53** depend from Claim 50 and are allowable as depending
24 from an allowable base claim, as well as for their recitation of elements not seen in
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1 the prior art of record. These claims are also allowable for their own recited
2 features that, in combination with those recited in Claim 50, are neither taught nor
3 suggested in references of record, either singly or in combination with one
4 another.

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6 Claims 34—39 were rejected under §102 as being anticipated by IBM,
7 “RS/6000 ATM Cookbook,” hereinafter “IBM.” In response, the Applicant
8 respectfully traverses the rejection.

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10 **Claim 34** recites a method for performing software updates, comprising:

- 11 • associating servers into groups sized to allow simultaneous updating
12 of servers in each group without disrupting work flow;
- 13 • **establishing a change window for each of the groups;** and
- 14 • applying updates within the change window, while monitoring a
15 failsafe timeout for each update.

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17 Claim 34 recites, “establishing a change window for each of the groups”.
18 The Applicant submits that the IBM reference is deficient to support the Section
19 102 rejection at least because IBM fails to show or disclose establishing such a
20 window.

21 Referring to the Applicant’s specification and drawings at FIG. 17 and
22 paragraph [0085], and other locations, the Applicant teaches that a “change
23 window” is the specific time period during which each subgroup of servers may be
24 taken down for update installation in a given time period. Establishing the change
25 window helps to regulate the update process.

Referring to the IBM reference at pages 21 (FIG. 11) and page 248, the
Applicant submits that IBM does not show or disclose a change window for any

1 group of updates. FIG. 11 on page 21 discloses the capabilities and adapters
2 (along the left side of the graph) associated with different operating systems (along
3 the top of the graph). The Applicant submits that a change window is not
4 discussed. Similarly, referring to page 248, a variety of subjects, such as token
5 rings, TCP/IP and commands with parameters are discussed. However, a change
6 window is not discussed.

7 Therefore, the Applicant submits that the IBM reference fails to show or
8 disclose elements recited by Claim 34. Accordingly, the Applicant respectfully
9 requests that the Section 102 rejection of Claim 34 be removed.

10 **Claim 35** is allowable for at least the reasons that Claim 34 is allowable.

11 **Claims 36—38** depend from Claim 35 and are allowable due to their
12 dependence from an allowable base claim. These claims are also allowable for
13 their own recited features that, in combination with those recited in Claim 35, are
14 not disclosed by reference of record.

15 **Claim 39** recites a method for performing software updates, comprising:

- 16 • grouping a large number of software updates into a package;
- 17 • **configuring the package for differential enforcement, wherein**
18 **different computers are given different periods of time within**
19 **which to perform a software update;** and
- configuring the package for SMS consumption.

20 Claim 39 recites, “configuring the package for differential enforcement,
21 wherein different computers are given different periods of time within which to
22 perform a software update”. The Applicant submits that the IBM reference is
23 deficient to support the Section 102 rejection at least because IBM fails to show or
24 disclose differential enforcement.
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1 Referring to the Applicant's specification at FIG. 18 and paragraph [0093]
2 of, and other locations, the Applicant teaches aspects of "differential
3 enforcement." In one example of what "differential enforcement" can include, an
4 XML document may recite rules using Boolean operators or other means which
5 result in application of the correct update(s) to each client.

6 Referring to the IBM reference at pages 141 and onward, the Applicant
7 submits that IBM does not show or disclose differential enforcement. The passage
8 in IBM cited by the Patent Office appears to be related to networking, including a
9 discussion of LAN emulation and similar topics. The Applicant would appreciate
10 clarification on how IBM relates to "differential enforcement."

11 Therefore, the Applicant submits that the IBM reference fails to show or
12 disclose elements recited by Claim 39. Accordingly, the Applicant respectfully
13 requests that the Section 102 rejection of Claim 39 be removed.

14 **Traversal of the §103 Rejections**

15 Claim 1 stands rejected under 35 U.S.C. §103(a) as being unpatentable
16 based on text from a Patent Office computer related to Daylight Savings Time
17 sync up, hereinafter "Sync Up Text". The Applicant respectfully traverses the
18 rejection.

19 The Sync Up Text shows instructions for the user to leave a workstation in
20 the 'logged on and locked condition' for the sync up. However, the Sync Up Text
21 does not teach or suggest "assigning a level of service" or "scheduling
22 performance ... according to the level of service". In fact, it appears that all
23 Patent Office employees are set at the same level of service, i.e. that they *all* must
24 leave their computer locked/on for sync up.
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1 If this rejection is to be maintained, the Applicant respectfully requests
2 clarification on how the Sync Up Text teaches "assigning a level of service". The
3 Applicant submits that no assignment of a level of service is taught, since it
4 appears that all Patent Office employees' computers are treated equally.
5 Accordingly, there is no assignment of a level of service.

6 Therefore, the Applicant submits that the Sync Up Text fails to show or
7 disclose elements recited by Claim 1. Accordingly, the Applicant respectfully
8 requests that the Section 103 rejection of Claim 1 be removed.

9 **Conclusion**

10 The Applicant submits that all of the claims are in condition for allowance
11 and respectfully requests that a Notice of Allowability be issued. If the Office's
12 next anticipated action is not the issuance of a Notice of Allowability, the
13 Applicant respectfully requests that the undersigned attorney be contacted for the
14 purpose of scheduling an interview.

15 Respectfully Submitted,

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17 Dated: 9-14-07

18 By: 

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